

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

DAVID SCOTT YARNALL

VS


CASE NO. 05-527-SLR

CPL. ANTHONY MENDEZ ET ALL  
~~FROM~~ DELAWARE STATE POLICE TROOP 7  
PTM LOWE, UNKNOWN OFFICERS WHO  
RESPONDED TO SCENE OF MILLSBORD  
POLICE AND PFC BUCHERT

MY BRIEF

BY

DAVID SCOTT YARNALL <sup>548973</sup>



DATED - 12/13/06

## TABLE OF CITATIONS

1. FOURTH AMENDMENT

2. FIFTH AMENDMENT

3. EIGHTH AMENDMENT

4. FOURTEENTH AMENDMENT

## NATURE OF PROCEEDINGS

DEFENDANT WAS BEING TAKEN INTO CUSTODY BY  
CPL. ANTHONY MENDEZ ON SUSPICION OF TWO COUNTS  
OF ATTEMPTED CAR JACKING.

PLEAD DOWN TO AGG. MENACING, MENACING AND  
RESISTING ARREST.

- ① CPL. ANTHONY MENDEZ VIOLATED MY 5<sup>TH</sup>, 8<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS OF THE UNITED STATES CONSTITUTION WHEN HE STRUCK ME TWO TIMES ON THE HEAD WITH A FLASHLIGHT WHILE I WAS HANDCUFFED
- ② CPL. ANTHONY MENDEZ VIOLATED THE 4<sup>TH</sup> AMENDMENT OF THE U.S. CONSTITUTION BY ALLOWING PC2 TO PUT HIS HAND IN MY RIGHT FRONT POCKET AND TOOK SOMETHING OUT AND PLACES THE OBJECT ON THE HOOD.
- ③ PTLM LOWE VIOLATED MY 5<sup>TH</sup>, 8<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS OF THE UNITED STATES CONSTITUTION WHEN HE ATTACKED ME WITH A TASER GUN, STRUCK ME ON THE BACK OF MY NECK, TASERING ME NUMEROUS TIMES AND STEPPING ON MY HEAD WITH SUSTAINED HEAD INJURIES, ALL WHILE HANDCUFFED.
- ④ CPL ANTHONY MENDEZ VIOLATED MY 5<sup>TH</sup>, 8<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS FOR FAILURE TO PREVENT THE USE OF EXCESSIVE FORCE BY ALLOWING PTLM LOWE TO TASER ME, HIT ME ON THE NECK AND STEPPING ON MY HEAD WHILE I WAS HANDCUFFED.
- ⑤ PFC BUCHERT VIOLATED MY 5<sup>TH</sup>, 8<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENTS FOR FAILURE TO PREVENT THE USE OF EXCESSIVE FORCE BY ALLOWING PTLM LOWE TO TASER ME, HIT ME ON THE NECK AND STEPPING ON MY HEAD WHILE I WAS HANDCUFFED.

## ARGUMENTS

- ① MENDEZ'S SUPERIORS AND COLLEAGUES BELIEVE OR SPECULATE THAT BEFORE MENDEZ ASSAULTED ME THAT WE WERE HEADED TOWARDS THE STREET. IF THAT WAS THE CASE THE ASSAULT WOULD NOT HAVE HAPPEN TOWARDS THE HOOD BUT AT THE REAR OF THE CAR. THE TWO BLOWS FORCED MY HEAD TOWARDS THE FRONT OF THE CAR AND INTO THE VIEW OF THE IN-CAR CAMERA. MENDEZ MALICIOUSLY WOUNDED ME OUT OF ANGER. IT CAN BE HEARD IN HIS VOICE. MY SKULL COULD HAVE BEEN FRACTURED OR I COULD HAVE BEEN KILLED.
- ② MENDEZ SHOULD HAVE SEARCHED ME AFTER HANDCUFFING ME INSTEAD OF ALLOWING A CIVILIAN TO SEARCH ME. INTERROGATORY QUESTION 16: MENDEZ, DID YOU ORDER PC2 TO PUT HIS HAND IN MY RIGHT FRONT POCKET AND PULL SOMETHING OUT AND PLACE IT ON THE HOOD NEAR MY OAKLEY SUNGLASSES? ANSWER: MENDEZ DOES NOT UNDERSTAND THIS QUESTION. MY QUESTION IS SELF EXPLANATORY.
- ③ DURING THIS ASSAULT FROM PTLM LOWE, NOBODY STEPPED IN TO STOP LOWE. AN OFFICER SAID "DONT DO IT, DONT DO IT". ACTIONS SHOULD HAVE BEEN TAKEN TO GRAB MY FEET AND PLACE ME IN THE CAR. NO WEAPON SHOULD HAVE BEEN USED ON ME. I DIDNT KICK ANYBODY. I ASSAULTED NO ONE. IT WAS NOT JUSTIFIABLE IN WHAT LOWE DID OR ANYBODY ELSE DID. I WAS HANDCUFFED!?!.
- ④ MENDEZ COULD HAVE STOPPED PTLM LOWE AFTER THE ATTACK
- ⑤ PFC BUCHERT JUST STOOD AROUND AND DID NOTHING.

## CONCLUSION

- ① MENDEZ COULD HAVE TAKEN MY LIFE THAT NIGHT ON MAY 11<sup>TH</sup> 2005. IT WOULD HAVE BEEN DIFFERENT IF I WASNT CUFFED AND I WAS ASSAULTING HIM. THERE ARE MANY OTHER PLACES TO HIT SOMEBODY. I FEEL THAT MENDEZ ASSAULTED ME WITH THE INTENT TO DO HARM AND HE DID. HE SPLIT MY HEAD OPEN IN TWO PLACES. THE WOUND CLOSE TO MY TEMPLE HAD 6 STAPLES AND THE WOUND ABOVE MY RIGHT EAR HAD 5 STAPLES. HE COULD HAVE GRABBED SOME FINGERS OR THE CUFFS OR EVEN TACKLED ME AT MY LEGS. HE COULD YOU PEPPER SPRAY. CLOSE PROXIMITY TO MY FACE? THAT'S WHAT IT IS FOR, JUST LIKE HOW THEY ABUSE INMATES HERE AT SCI UP IN THE <sup>FACE</sup>
- ② NO CIVILIAN SHOULD HAVE TOUCHED ME. MENDEZ SHOULD HAVE PATTED ME DOWN AND PLACED ME IN THE CAR.
- ③ THERE ARE CASES WHERE PEOPLE HAVE DIED FROM TASERS. DELAWARE STATE POLICE DON'T USE THEM. PTLM LOWE MADE ME RUN. BEING TASERED NUMEROUS TIMES COULD HAVE KILLED ME. I WAS CALM UNTIL MILLSBORO DID WHAT THEY DID. LOWE SHOULDN'T HAVE LIED ON HIS POLICE REPORT
- ④ MENDEZ SHOULD HAVE STOPPED LOWE.
- ⑤ PFC BUCHERT SHOULD HAVE STEPPED IN AND STOPPED HIS PARTNER INSTEAD OF STANDING AROUND THEN LYING ON HIS POLICE REPORT.

DATED: 12/13/06

SIGNATURE: 

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